

SONOMA COUNTY

Audit Report

COURT REVENUES

July 1, 2005, through June 30, 2011



JOHN CHIANG
California State Controller

May 2013



JOHN CHIANG
California State Controller

May 10, 2013

José O. Guillen
Court Executive Officer
Superior Court of California
Sonoma County
600 Administration Drive, Room 1065
Santa Rosa, CA 95403

David E. Sundstrom
Auditor-Controller
Sonoma County
585 Fiscal Drive, Suite 100
Santa Rosa, CA 95403

Dear Mr. Guillen and Mr. Sundstrom:

The State Controller's Office (SCO) audited Sonoma County's court revenues for the period of July 1, 2005, through June 30, 2011.

Our audit disclosed that the county overremitted \$192,586 in court revenues to the State Treasurer because it:

- Underremitted the 50% of excess qualified revenues by \$790,808,
- Overremitted state revenues from inappropriate distributions of traffic violator school cases by \$1,088,620,
- Overremitted state revenues from inappropriate distributions of red-light cases by \$17,471,
- Underremitted the criminalistics laboratory fine by \$174,371, and
- Overremitted the state domestic violence fee by \$51,674.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2005, through June 30, 2011.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Joe Vintze, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor
Division of Accounting and Reporting
Bureau of Tax Administration
Post Office Box 942850
Sacramento, CA 94250-5872

Once the county has paid the underremitted Trial Court Improvement Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: David Rabbitt, Supervisor
County Board of Supervisors
Sonoma County Administration Building
John Judnick, Senior Manager
Internal Audit Services
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office
Sandeep Singh, Fiscal Analyst
Division of Accounting and Reporting
State Controller's Office
Cindy Giese, Supervisor, Tax Programs Unit
Division of Accounting and Reporting
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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Sonoma County for the period of July 1, 2005, through June 30, 2011.

Our audit found that the county overremitted \$192,586 in court revenues to the State Treasurer because it:

- Underremitted the 50% of excess qualified revenues by \$790,808.
- Overremitted state revenues from inappropriate distributions of traffic violator school cases by \$1,088,620.
- Overremitted state revenues from inappropriate distributions of red-light cases by \$17,471.
- Underremitted the criminalistics laboratory fine by \$174,371.
- Overremitted the state domestic violence fee by \$51,674.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the SCO to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2005, through June 30, 2011. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court and Probation Department.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county that show court revenue distributions to the State, the county, and the cities located within the county
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions
- Evaluated the accuracy of revenue distribution, using as criteria various California codes and the SCO's *Manual of Accounting and Audit Guidelines for Trial Courts*
- Tested for any incorrect distributions
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Sonoma County overremitted \$192,586 in court revenues to the State Treasurer. The overremittances and underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued December 6, 2006.

**Views of
Responsible
Official**

We issued a draft audit report on February 27, 2013. Donna Dunk, Assistant Auditor-Controller, responded by letter dated March 18, 2013 (Attachment A), providing comments from Sonoma County and the Superior Court of California, agreeing with the audit findings.

Restricted Use

This report is solely for the information and use of Sonoma County, the Sonoma County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

May 10, 2013

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2005, through June 30, 2011

Description of Findings Account Title ¹ —Code Section	Fiscal Year						Total	Reference ²
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11		
Underremitted 50% Excess of Fines, Fees, and Penalties:								
State Trial Court Improvement Fund—GC §77205	\$ 91,057	\$ 250,359	\$ 115,232	\$ 115,854	\$ 108,349	\$ 109,957	\$ 790,808	Finding 1
Court Traffic Violator School Cases								
State Court Facility Construction Fund—GC §703372(a)	(109,482)	(121,325)	(112,910)	(110,783)	(107,236)	(109,303)	(671,039)	Finding 2
State DNA Penalty Fund—GC §76104.7	—	(60,662)	(56,455)	(55,391)	(53,618)	(54,652)	(280,778)	Finding 2
State DNA Penalty Fund—GC §76104.6	(38,319)	(36,397)	(21,171)	(13,848)	(13,405)	(13,663)	(136,803)	Finding 2
Court Red-Light Violation Cases								
State Court Facility Construction Fund—GC §703372(a)	(9,226)	(6,413)	(9,641)	(9,752)	(7,056)	(9,652)	(51,740)	Finding 3
State DNA Penalty Fund—GC §76104.7	—	(486)	(1,149)	(2,210)	(1,265)	(867)	(5,977)	Finding 3
State DNA Penalty Fund—GC §76104.6	(1,781)	(292)	(706)	(553)	(316)	(877)	(4,525)	Finding 3
20% State Surcharge—PC §1465.7	6,847	6,952	9,447	8,688	7,234	5,603	44,771	Finding 3
Court DUI and Drug Cases								
Criminal Lab Analysis Fine—H&S §11372.5	14,799	22,229	21,385	25,672	21,498	68,788	174,371	Finding 4
Probation Department Domestic Violence Fee								
State Domestic Violence Training Fund—PC §1203.097	(1,121)	(4,069)	(9,053)	(8,724)	(2,751)	(119)	(25,837)	Finding 5
State Domestic Violence Education Fund—PC §1203.097	(1,121)	(4,069)	(9,053)	(8,724)	(2,751)	(119)	(25,837)	Finding 5
Net amount underpaid (overpaid) to the State Treasurer	<u>\$ (48,347)</u>	<u>\$ 45,827</u>	<u>\$ (74,074)</u>	<u>\$ (59,771)</u>	<u>\$ (51,317)</u>	<u>\$ (4,904)</u>	<u>\$ (192,586)</u>	

Legend: GC = Government Code; H&SC = Health and Safety Code; PC = Penal Code; VC = Vehicle Code

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the Remittance Advice Form TC-31 to the State Treasurer.

² See the Findings and Recommendations section.

**Schedule 2—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2005, through June 30, 2011**

Month	Fiscal Year					
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —
August	91,057	250,359	115,232	115,854	108,349	109,957
September	—	—	—	—	—	—
October	—	—	—	—	—	—
November	—	—	—	—	—	—
December	—	—	—	—	—	—
January	—	—	—	—	—	—
February	—	—	—	—	—	—
March	—	—	—	—	—	—
April	—	—	—	—	—	—
May	—	—	—	—	—	—
June ¹	—	—	—	—	—	—
Total underremittances to the State Treasurer	<u>\$ 91,057</u>	<u>\$ 250,359</u>	<u>\$ 115,232</u>	<u>\$ 115,854</u>	<u>\$ 108,349</u>	<u>\$ 109,957</u>

NOTE: Delinquent Trial Court Improvement Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

¹ Includes maintenance-of-effort underremittances (Finding 1) as follows:

Fiscal Year					
2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
<u>\$ 91,057</u>	<u>\$ 250,359</u>	<u>\$ 115,232</u>	<u>\$ 115,854</u>	<u>\$ 108,349</u>	<u>\$ 109,957</u>

**Schedule 3—
Summary of Overremittances by Month
July 1, 2005, through June 30, 2011**

Month	Fiscal Year					
	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
July	\$ (13,421)	\$ (19,476)	\$ (18,345)	\$ (17,499)	\$ (15,700)	\$ (15,771)
August	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
September	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
October	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
November	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
December	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
January	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
February	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
March	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
April	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
May	(13,421)	(19,476)	(18,345)	(17,499)	(15,700)	(15,771)
June	(13,419)	(19,477)	(18,343)	(17,496)	(15,698)	(15,771)
Total overremittances to the State Treasurer	<u>\$ (161,050)</u>	<u>\$ (233,713)</u>	<u>\$ (220,138)</u>	<u>\$ (209,985)</u>	<u>\$ (188,398)</u>	<u>\$ (189,252)</u>

Findings and Recommendations

FINDING 1— Underremitted the 50% excess of qualified fines, fees, and penalties

Sonoma County underremitted by \$790,808 the 50% excess of qualified fines, fees and penalties to the State Treasurer for the six-fiscal-year period starting July 1, 2005, and ending June 30, 2011. Government Code (GC) section 77201(b) (2) requires Sonoma County, for its base revenue obligation, to remit \$2,316,999 for fiscal year (FY) 1998-1999 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the State Trial Court Improvement Fund 50% of the qualified revenues, as the statute read on December 31, 1997, that exceed the stated base for each fiscal year.

The error occurred due to the fiscal impact of conditions identified in this report's findings as follows:

- When preparing the maintenance-of-effort (MOE) calculation, the county did not include the accurate amount of qualified revenues for a proper calculation. Also, probation fines were not included as part of the qualified revenues. A net total of \$365,292 qualified revenues should have been included in the MOE calculation.
- As stated in Finding 2, Sonoma Superior Court did not properly distribute the traffic violator school (TVS) cases. This inappropriate distribution caused an understatement of county TVS bail by \$1,480,284. A net total of \$1,139,819 should have been included in the MOE calculation.
- As stated in Finding 3, Sonoma Superior Court did not properly distribute the red-light violation cases. This inappropriate distribution caused overstatements of county base fines by \$26,660 and understatement of county TVS funds by \$125,321. A net total of \$76,502 should have been included in the MOE calculation.

The adjusted qualified revenues reported for FY 2005-06 were \$4,597,597. The excess, above the base of \$2,316,999, is \$2,280,598. This amount should be divided equally between the county and State, resulting in \$1,140,299 excess due the State. The county has remitted a previous payment of \$1,049,242, causing an underremittance of \$91,057.

The adjusted qualified revenues reported for FY 2006-07 were \$4,771,442. The excess, above the base of \$2,316,999 is \$2,454,443. This amount should be divided equally between the county and State, resulting in \$1,227,222 excess due the State. The county has remitted a previous payment of \$976,863, causing an underremittance of \$250,359.

The adjusted qualified revenues reported for FY 2007-08 were \$4,390,350. The excess, above the base of \$2,316,999 is \$2,073,351. This amount should be divided equally between the county and State, resulting in \$1,036,676 excess due the State. The county has remitted a previous payment of \$921,444, causing an underremittance of \$115,232.

The adjusted qualified revenues reported for FY 2008-09 were \$4,159,082. The excess, above the base of \$2,316,999 is \$1,842,083. This amount should be divided equally between the county and state resulting in \$921,042 excess due the state. The county has remitted a previous payment of \$805,188 causing an underremittance of \$115,854.

The adjusted qualified revenues reported for FY 2009-10 were \$4,075,585. The excess, above the base of \$2,316,999 is \$1,758,586. This amount should be divided equally between the county and state resulting in \$879,293 excess due the state. The county has remitted a previous payment of \$770,944 causing an underremittance of \$108,349.

The adjusted qualified revenues reported for FY 2010-11 were \$4,147,896. The excess, above the base of \$2,316,999, is \$1,830,897. This amount should be divided equally between the county and State resulting in \$915,449 excess due the State. The county has remitted a previous payment of \$805,492, causing an underremittance of \$109,957.

The under-remittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC § 77205	
FY 2005-06	\$ 91,057
FY 2006-07	250,359
FY 2007-08	115,232
FY 2008-09	115,854
FY 2009-10	108,349
FY 2010-11	109,957
County General Fund	(790,808)

Recommendation

The county should remit \$790,808 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the State Trial Court Improvement Fund-GC Section 77205. The county should also make the corresponding account adjustments as the result.

County's Response

The county agreed with the finding.

FINDING 2— Inappropriate distribution of traffic violation school (TVS) cases

The Sonoma Superior Court did not properly distribute TVS cases from July 2005 through June 2011. The court incorrectly assessed \$5 for every \$10 base fine instead of \$3 for every \$10 to calculate remittances to the State Court Facility Construction Fund. The DNA penalty assessment and Additional DNA penalty assessment were also inappropriately distributed. Both DNA penalty funds should be part of the county TVS fund. Additionally, the court incorrectly deducted \$1 to the county Jailhouse Construction Fund and \$1 to the county Courthouse Construction Fund out of the total TVS bail.

The errors occurred because the court's accounting system has not been programmed properly to comply with the statutory requirements affecting the distribution of TVS cases.

GC section 70372 requires that a State Court Facility Construction Fund receive penalties in an amount equal to \$3 for every \$10 or fraction thereof, upon every criminal fine and forfeiture when penalties are imposed. Prior to an agreement between the county and Judicial Council (State) for responsibility for court house construction and maintenance, the penalties remitted to the State are reduced by the difference, if any, between the \$3 penalty and the amount of the local penalty remitted to the local Courthouse Construction Fund pursuant to GC section 761000.

GC section 77205 requires that \$1 be distributed to each fund, the County Courthouse Construction Fund and Criminal Justice Construction Fund and deduct the funds solely from the county 23% TVS fee account.

Per DNA Penalty Assessment (Proposition 69) Distribution Guidelines, DNA Identification penalty assessment is part of the total TVS fee. Therefore, the assessment should be distributed to the county's General Fund.

Failure to properly distribute TVS bail affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC 77205. Additionally, the incorrect distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Penalty Fund–GC §70372(a)	\$ (671,039)
State Additional DNA Penalty Fund–GC §76104.7	(280,778)
State DNA Penalty Assessment Fund–GC §76104.6	(136,803)
County DNA Penalty Assessment Fund–GC §76104.6	(198,717)
\$1 Courthouse Construction Fund	(96,475)
\$1 Criminal Justice House Construction Fund	(96,475)
County General Fund	1,480,287

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$1,088,620 and report on the remittance advice form (TC-31) the following: a decrease of \$671,039 to the State Court Facility Construction Penalty Fund–GC section 70372a; a decrease of \$280,778 to the State Additional DNA Penalty Fund–GC section 76104.7; and a decrease of \$136,803 to the State DNA Penalty Assessment Fund–GC section 76104.6. The County also should implement other adjustments noted above to comply with statutory requirements for TVS bail distribution. The court should make redistributions for the period of July 2011 through the date on which the current system is revised.

Court's Response

The Court agreed with the finding.

**FINDING 3—
Inappropriate
distribution of red-
light violation cases**

Sonoma Superior Court did not appropriately distribute red-light violation bail from July 2005 through June 2011. The court made the following distribution errors:

- The 20% state surcharge was incorrectly reduced by 30% in all red-light cases.
- The 30% deduction was incorrectly applied to Additional Emergency Medical Services Fund and both DNA penalty funds.
- The State Court Facility Construction Fund was overstated in red-light TVS cases.
- Both DNA penalty funds were not distributed as part of the county TVS fund in red-light TVS cases.
- The \$1 for Criminal Justice Facilities Construction Fund and \$1 for Courthouse Construction Fund per case were not deducted from the 23% of county TVS fund only.
- The 2% State Automation Fee was not deducted from the city base fine and included in the county TVS fund.

The errors occurred because the court's accounting system has not been programmed to comply with the statutory requirements affecting the distribution of red-light cases.

Penal Code (PC) section 1463.11 requires 30% of the total of base fines, and state and county penalties, pursuant to red light violations, to be distributed to the general fund of the county or city in which the offense occurred.

The 20% State Surcharge pursuant to PC section 1465.7, additional EMS penalties pursuant to GC section 76000.5, and DNA penalties pursuant to GC section 76104.6 and 76104.7 are not subject to the 30% distribution. These statutes require their full distribution prior to the requirements set forth in PC section 1463.

Vehicle Code Section 42007(c) requires a 2% state automation fee to be deducted from the city base fines.

The inappropriate distributions for red-light cases affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Additionally, the inappropriate distribution had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund—GC §703372(a)	\$ (51,740)
Additional State DNA Penalty Fund—GC §76104.7	(5,977)
State DNA Penalty Fund—GC §76104.6	(4,525)
County DNA Penalty Fund—GC §76104.6	(7,370)
Sonoma County General Fund	(26,660)
Cloverdale	(285)

Account Title	Understated/ (Overstated)
Cotati	(4,723)
Healdsburg	(889)
Petaluma	(13,642)
Rohnert Park	(4,423)
Santa Rosa JC	(414)
Santa Rosa	(54,992)
Sebastopol	(2,431)
Sonoma	(1,980)
Sonoma State	(292)
Windsor	(1,190)
Courthouse Construction Fund	(3,627)
Criminal House Construction Fund	(3,627)
20% State Surcharge–PC §1465.7	44,771
Additional EMS Fund–GC §76000.5	18,695
County TVS Fund–VC §42007	125,321

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$17,471 and report on the remittance advice form (TC-31) the following: a decrease of \$51,740 to the State Court Facility Construction Fund–GC section 70372a; a decrease of \$5,977 to the State Additional DNA Penalty Fund–GC section 76104.7; a decrease of \$4,525 to the State DNA Penalty Assessment Fund–GC section 76104.6; and an increase of \$44,771 to the 20% State Surcharge Fund–PC section 1465.7. The county also should implement other adjustments noted above to comply with statutory requirements for red-light violation bail distribution. The court should make redistributions for the period of July 2011 through the date on which the current system is revised.

Court's Response

The Court agreed with the finding.

FINDING 4— Underremitted criminalistics laboratory fine

The Sonoma Superior Court did not make the required distributions to the State General Fund of a \$50 criminalistic laboratory fine on each conviction of a controlled substance violation as identified in Health and Safety (H&S) Code Section 11372.5. The error occurred because the court inadvertently overlooked the required distribution.

A \$50 fine (net of allowable overhead costs) is required to be distributed monthly to the State General Fund to support the costs of laboratory testing performed by the State Department of Justice.

H&S 11502 allows the total county-wide controlled substance fine collection to be used if the criminalistic laboratory fine collections are inadequate to make the required distributions.

Failure to make the required fine distributions had the following effect:

Account Title	Understated/ (Overstated)
State General Fund–H&S §11372.5	\$ 174,371
County General Fund	(174,371)

The county should remit \$174,371 to the State Treasurer and report on the remittance advice form (TC-31) an increase of \$174,371 to the State General Fund – H&S Code section 11372.5. The Court should also make redistributions for the period of July 2011 through the date the current system is revised.

Court's Response

The Court agreed with the finding.

FINDING 5— Inappropriate distributions of domestic violence fees

The Sonoma County Probation Department did not appropriately distribute the domestic violence fees, causing overstatements to the State Domestic Violence Funds. The error occurred because the county's accounting system was not updated to implement the new regulatory requirements regarding the distribution of Domestic Violence Fees.

Penal Code (PC) section 1203.097(a) (5) requires a \$400 minimum fee as condition of probation on domestic violence cases. Two-thirds of the fee should go to the county Domestic Violence Fund. The remaining 1/3 of the fee should be split evenly between the State Domestic Violence Restraining Order Fund and the State Domestic Violence Training and Education Program.

Failure to properly distribute domestic violence fees affected the revenues reported to the State. Additionally, the inappropriate distributions had the following effect:

Account Title	Understated/ (Overstated)
State Domestic Violence Restraining Order Fund–PC §1203.097	\$ (25,837)
State Domestic Violence Training & Education Program–PC §1203.097	(25,837)
County Domestic Violence Fee–PC §1203.097	51,674

Recommendation

The county should reduce subsequent remittances to the State Treasurer by \$51,674 and report on the remittance advice form (TC-31) a decrease of \$25,837 to the State Domestic Violence Restraining Order–PC section 1203.097, and a decrease of \$25,837 to the State Domestic Violence Training and Education Program–PC section 1203.097. The county should make redistributions for the period of July 2011 through the date on which the current system is revised.

County's Response

The county agreed with the finding.

**FINDING 6—
Inappropriate
distribution of
forfeited Health and
Safety bail bonds**

The Sonoma Superior Court underremitted the State's share of controlled substance revenues from bail bond forfeitures in FY 2005-06 through FY 2010-11. The revenues after deducting the 2% automation fee should have been distributed per H&S Code section 11502.

The errors occurred because the court's accounting system has not been programmed to comply with the statutory requirements affecting the distribution of forfeited H&S bail bond cases.

H&S Code section 11502 requires that controlled substance revenue be distributed in the following manner: 75% to the State General Fund and 25% to the county or city, depending on whether the arrest took place in the county or city.

Failure to correctly distribute forfeited H&S bail bond revenues caused the understatement of the State General Fund revenues and overstatements of county and city base fines. However, a redistribution of the effect did not appear to be material.

Recommendation

The Court should revise its distribution formula to comply with statutory requirements for forfeited H&S bail bond distribution. The court also should make redistributions for the period of July 2011 through the date on which the current system is revised.

Court's Response

The Court agreed with the finding.

**FINDING 7—
Inappropriate
distribution of
driving-under-
influence cases,
Superior Court**

The Sonoma Superior Court did not appropriately distribute the driving-under-the-influence (DUI) revenues from FY 2005-06 through FY 2010-11. The special revenues were taken out of the total bail instead of the base fine portion only. The errors occurred because the court's accounting system is unable to distribute DUI cases correctly.

PC section 1463.14(a) requires a \$50 fee to be distributed from the DUI and reckless driving base fines to the county lab fees.

PC section 1463.16 requires a \$50 fee to be distributed from the DUI and reckless driving base fines to the county Alcohol Program Fund.

PC section 1463.18 requires a \$20 fee to be distributed from the DUI base fine to the State Restitution Fund.

Failure to properly distribute DUI revenues affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Also, the county and city base fines were overstated and state and local penalty funds were understated. However, we did not redistribute the effect because doing so did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Court should properly program the accounting system to comply with statutory distribution requirements for DUI cases.

Court's Response

The Court agreed with the finding.

FINDING 8— Inappropriate distributions of driving-under- influence cases, Probation Department

The Sonoma County Probation Department did not appropriately distribute the DUI case revenue from FY 2005-06 through FY 2010-11. The county made the following distribution errors:

- The 2% State Automation Fee was not deducted from fines and penalties
- The DNA Penalty Funds were not distributed
- The county's share of the State Penalty Fund was understated
- Base fines were overstated
- The Traumatic Brain Injury (TBI) Fund was erroneously distributed
- The Emergency Medical Air Transportation (EMAT) Fund was not distributed

The errors occurred because the Probation Department's CUBS system is unable to distribute DUI cases correctly.

DNA Penalty Assessment—GC section 76104.6 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture to be levied on criminal offenses, including traffic offenses.

Additional DNA Penalty Fund—GC section 76104.7 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture to be levied on criminal offenses, including traffic offenses.

The EMAT—GC section 76000.10 requires a \$4 penalty imposed on every conviction of violation of the Vehicle Code or local ordinance adopted pursuant to the Vehicle Code.

GC section 68090.8 requires that 2% of all criminal fines, penalties, and forfeitures be remitted to the State Trial Court Improvement Fund.

The distribution to the TBI Fund per PC section 1464 (B) was repealed in FY 2004-05.

Failure to properly distribute DUI case revenue affected the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to GC section 77205. Also, the county and city base fines were overstated and state and local penalty funds were understated. However, we did not redistribute the effect as doing so did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The county should properly program the CUBS system to comply with statutory distribution requirements for DUI cases.

County's Response

The county agreed with the finding.

FINDING 9— Inappropriate distribution of controlled substance violation revenues

The Sonoma County Probation Department inappropriately distributed controlled substance violation cases from FY 2005-06 through FY 2010-11. 75% of the base fine portion was not distributed to the state General Fund pursuant to H&S Code section 11502. Also, DNA Penalty Funds were not distributed. The error occurred because the Probation Department's CUBS system was not correctly programmed to distribute controlled substance revenues.

H&S Code section 11502 requires that controlled substance revenue be distributed in the following manner: 75% to the State General Fund and 25% to the county or city, depending on whether the arrest took place in the county or city.

DNA Penalty Assessment—GC section 76104.6 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture to be levied on criminal offenses, including traffic offenses.

Additional DNA Penalty Fund—GC section 76104.7 requires a \$1 penalty for every \$10 or fraction thereof upon every fine, penalty, and forfeiture to be levied on criminal offenses, including traffic offenses.

Failure to correctly distribute controlled substance revenue caused the understatement of the state General Fund and overstatements of probation fines. Instead of revenue being sent to the State, the revenue remained with the county. However, a redistribution of the effect did not appear to be material.

Recommendation

The Sonoma Probation Department should revise its distribution formula to comply with the statutory distribution requirement for controlled substances revenues. It also should make redistributions for the period of July 2011 through the date on which the current system is revised.

County's Response

The county agreed with the finding.

**FINDING 10—
Inappropriate
distribution of fish
and game revenues**

The Sonoma Probation Department did not correctly distribute the fish and game revenues for FY 2005-06 through FY 2010-11. The Probation Department made the following distribution errors:

- Fish and game fines were not split 50-50 between the county and state
- The 20% State Surcharge was not distributed
- The State Penalty Fund was understated
- The 2% State Automation Fee was not deducted from fines and penalties
- Neither DNA Penalty Funds were distributed

The error occurred because the Probation Department's accounting system was not programmed correctly to distribute fish and game revenues.

Fish and Game Code section 13003 requires a 50/50 split between the county and State for any fines collected pursuant to this section.

PC section 1465.7 requires 20% of the base fine for any offense subject to PC 1464 to be distributed to the State Surcharge account.

GC section 68090.8 requires that 2% of all criminal fines, penalties, and forfeitures be remitted to the State Trial Court Improvement Fund.

Failure to properly distribute fish and game revenues caused the State Fish and Game Preservation Fund to be understated. However, a redistribution of the effect did not appear to be material.

Recommendation

The Sonoma Probation Department should change its distribution formulas for fish and game revenues to comply with the statutory requirements.

County's Response

The county agreed with the finding.

**Attachment—
County Auditor-Controller's and Court's Response
to Draft Audit Report**

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March 18, 2013

To: Steven Mar, Chief, Local Government Audits Bureau, at the State Controller's Office, Division of Audits

From: Donna Dunk, Assistant Auditor Controller, County of Sonoma Auditor-Controller-Treasurer-Tax Collector

Subject: Responses to Sonoma County's Court Revenue Audit for the period of July 1, 2005, through June 30, 2011.

Dear Mr. Mar,

Please find below comments concerning the draft audit report received by Sonoma County and Superior Court of California, Sonoma County on March 4, 2013 (copy attached).

Finding #1 – Underremitted the 50% Excess of Qualified Fines, Fees and Penalties Response:

The County agrees with the finding and will work with the Courts and Probation Department to implement policies and procedures to properly remit the 50% excess of qualified fines, fees and penalties. The County will need to make an adjustment to the amount reported for FY11-12 that will be reflected on a future remittance advice form (TC-31) as an increase to the State Trial Court Improvement Fund-GC Section 77205 by the end of FY 12-13.

Finding #2 – Inappropriate distribution of traffic violator school (TVS) Cases Response:

The Court agrees with the finding and is correcting the distribution as follows:

- State Court Facility Construction Fund should be \$3 per \$10 of base – this was corrected in the case management system 10/2011. Redistribution for these fines will be completed for July – Sept FY 11-12 by the end of FY 12-13.
- DNA Penalty Assessment and Additional DNA Penalty Assessment should be included in the TVS Fund. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.
- Courthouse Construction \$1.00 and Criminal Justice Facilities \$1.00 should come out of 23% split. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.

Finding #3 - Inappropriate distribution of Red-light violation cases Response:

The Court agrees with the finding and is correcting the problem as follows:

- 20% surcharge was incorrectly reduced by 30% in all red light cases. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.
- 30% deduction was incorrectly applied to Additional EMS fund and both DNA Penalty Funds. This was corrected in the case management system 11/2011. Redistribution for these fines will be completed for July – Sept FY 11-12 by the end of FY 12-13.
- State Court Facility Construction Fund was overstated in red light TVS cases. This was corrected in the case management system 10/2011. Redistribution for these fines will be completed for July – Sept FY 11-12 by the end of FY 12-13.
- Both DNA penalty funds should be distributed as part of county TVS fund in red light cases. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.
- Courthouse Construction 1.00 and Criminal Justice Facilities 1.00 should come out of 23% split. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.
- 2% State Automation Fee should be deducted from the city base and included in the TVS fund. This was corrected in the case management system 10/2012. Redistribution for these fines will be completed for FY 11-12 by the end of FY 12-13.

Finding #4 - Underremitted Criminalistics Laboratory Fine Response:

The Court agrees with the finding and has corrected their process. The FY 11-12 correction has been made and communicated to the County in July 2012.

Finding #5 – Inappropriate Distributions of Domestic Violence Fees Response:

The County agrees with the finding and has corrected the distribution in the accounting system. Redistribution of payments received for the period of July 2011 through the date the system is revised will be reflected in future remittances prior to the end of the FY 12-13.

Finding #6 – Inappropriate distributions of Forfeited Health & Safety Bail Bond Response:

The Court agrees with the finding and has corrected their process. Redistribution for these fines will be completed for FY 11-12 and will be reflected in future remittances prior to the end of FY 12-13.

Finding #7 – Inappropriate distributions of driving under the influence (DUI) Cases Response:

The Court agrees with the finding and is correcting the distribution as follows:

- PC1463.14 (a) requires a \$50 fee to be distributed from the DUI and reckless driving base fines to County Lab Fund – The court is aware of this requirement and it is being

corrected in the new case management system. The current case management system does not allow this type of calculation.

- PC 1463.16 requires a \$50 fee to be distributed from the DUI and reckless driving base fines to County Alcohol Program Fund - The court is aware of this requirement and it is being corrected in the new case management system. The current case management system does not allow this type of calculation.
- PC 1463.18 requires \$20 fee should be distributed from the base fine to the state restitution fund. - The court is aware of this requirement and it is being corrected in the new case management system. The current case management system does not allow this type of calculation.

Finding #8 – Inappropriate distributions of DUI cases Response:

The County agrees with the finding and is correcting the distribution per the Recommendation. Redistribution of payments received for the period of July 2011 through the date the system is revised will be reflected in future remittances prior to the end of the FY 12-13.

Finding #9 – Inappropriate Distribution of Controlled Substance Revenue Response:

The County agrees with the finding and is correcting the distribution per the Recommendation. Redistribution of payments received for the period of July 2011 through the date the system is revised will be reflected in future remittances prior to the end of the FY 12-13.

Finding #10 – Inappropriate Distribution of Fish & Game Revenues Response:

The County agrees with the finding and is correcting the distribution per the Recommendation. Redistribution of payments received for the period of July 2011 through the date the system is revised will be reflected in future remittances prior to the end of the FY 12-13.

If there are any questions or concerns please do not hesitate to contact me at 707-565-3274 or via email at donna.dunk@sonoma-county.org.

Sincerely,



Donna Dunk, CPA

**State Controller's Office
Division of Audits
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